

09-20-07

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PTO/SB/21 (04-07)

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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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	Application Number	10/677,122
	Filing Date	October 1, 2003
	First Named Inventor	Kozo Odamura et al.
	Art Unit	1775
	Examiner Name	Timothy M. Speer
Total Number of Pages in This Submission	Attorney Docket Number	1300-000005/US

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) ____	<input type="checkbox"/> After Allowance Communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Exhibit A (Affidavit); Exhibit B (Relevant Page of Commissioner's Mail); Exhibit C (Express Mail Label); Previously Mailed Request for Continued Examination; Previously Mailed Petition for Extension of Time; Previously Mailed Amendment; Previously Mailed Check in the amount of \$1810; Return Receipt Postcard
Remarks: The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 08-0750. A duplicate copy of this sheet is enclosed.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Harness, Dickey & Pierce, P.L.C.		
Signature			
Printed name	Michael E. Hilton		
Date	September 19, 2007	Reg. No.	33,509

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Michael E. Hilton	Express Mail Label No.	EM 061 813 683 US (9/19/2007)
Signature		Date	September 19, 2007


This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

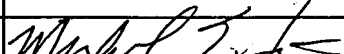
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

EM 061 813 683 US

ORIGINAL TRANSMITTAL FORM SEP 19 2007 PATENT & TRADEMARK OFFICE for all correspondence after initial filing)	Application Number	10/677,122
	Filing Date	October 1, 2003
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Firm Name	Harness, Dickey & Pierce, P.L.C.		
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Printed name	Michael E. Hilton		
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Typed or printed name	Michael E. Hilton	Express Mail Label No.	EM 061 813 683 US (9/19/2007)
Signature		Date	September 19, 2007

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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/677,122
Filing Date: October 1, 2003
Applicants: Kozo Odamura et al.
Group Art Unit: 1775
Examiner: Timothy M. Speer
Title: PRINTING METHOD USING PEARL PIGMENT
Attorney Docket: 1300-000005/US

Director of The United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

PETITION UNDER 37 C.F.R. 1.10(e)
FOR RETROACTIVE FILING DATE

Sir:

Pursuant to 37 C.F.R. 1.10(e), M.P.E.P §513, Applicants, Kozo Odamura et al., through their attorneys, Harness, Dickey & Pierce, P.L.C. (HD&P), hereby petitions the honorable Commissioner of Patents for a retroactive filing date of September 10, 2007 for the enclosed Request for Continued Examination, Petition for Extension of Time, Amendment and check for the required fees (collectively referred to herein as the "Response") in the above-referenced utility patent application. The Response was mailed by Express Mail of the United States Postal Service on Monday, September 10, 2007, in a package appropriately addressed to the USPTO, along with all other Patent

Office-directed mail from the Troy, Michigan offices of HD&P. This September 10, 2007 Commissioner's mail package, however, was subsequently mistakenly rerouted to HD&P's Reston, Virginia office, arriving at said office on September 12, 2007. As a consequence of such mistaken rerouting of the Response, said Response was not provided with the September 10, 2007 filing date pursuant to the Express Mail provisions of 37 C.F.R. 1.10. September 10, 2007 is the date upon which a Response is due in the above-referenced application to avoid abandonment thereof, and it is therefore imperative that a retroactive filing date of September 10, 2007 be given to the Response.

The following facts are submitted in support of this Petition for the granting of a retroactive filing date of September 10, 2007 for the Application:

- 1) On Monday, September 10, 2007, the HD&P Troy, MI office Mail Room accumulated the day's filings for the United States Patent and Trademark Office, which filings are collectively hereinafter referred to as the day's "Commissioner's mail package". The various documents being sent to the U.S. Patent and Trademark Office were appropriately inventoried and the correct mailing label (correct addressee and correct address to the USPTO) was affixed to the container of the files, as verified by the HD&P Troy, MI Mail Room Clerk, Mr. Joshua Copeland. (See the attached Affidavit of Mr. Copeland identified as Exhibit A).
- 2) The September 10, 2007 Commissioner's mail package included the Response enclosed herewith, which includes the number of the "Express Mail" mailing label thereon. A true and correct copy of the relevant page

of the HD&P Troy, MI Office Commissioner's book showing the inclusion of the Response in the September 10, 2007 Commissioner's mail package is attached as Exhibit B.

- 3) The September 10, 2007 Commissioner's mail package, again appropriately addressed from the HD&P Troy, MI office to the USPTO, was deposited with the U.S. Patent and Trademark Office as a result of being accepted by the U.S. Postal Service mail carrier late in the afternoon of Monday, September 10, 2007. The tracking number for the HD&P Troy, MI office Commissioner's mail package is EV755 419 224 US. The label was fully intact and affixed to the container when originally received by the U.S. Postal Service. A true and correct copy of the Express Mail Mailing Label showing the September 10, 2007 pick-up at 17:00 of the package is attached hereto as Exhibit C.
- 4) On September 11, 2007, we understand that an employee of the U.S. Postal Service called the HD&P Troy, MI receptionist explaining that at least a portion of the U.S. Postal Service Express Mail Mailing Label had been improperly prematurely separated from the Commissioner's mail package and the employee could not identify the addressee from any remaining portion of the label.¹ Based upon information provided by the U.S. Postal Service employee the HD&P Troy, MI receptionist mistakenly believed that the caller was asking for the address of HD&P's Reston,

¹ It is unclear whether the addressee portion of the label was missing, or whether a remaining copy was simply not legible, e.g., as a result of the lack of adequate pressure in writing the addressee. In either case, we understand that any such remaining copy would have been the "Addressee Copy," which is not intended to be used to direct the package to its destination. We understand that only the "Mailing Label," which is the original label is intended to be used to direct the package to its destination.

Virginia offices. As a result, the Commissioner's mail package was mistakenly delivered on September 12, 2007 to the HD&P Reston, VA office, rather than the USPTO in Arlington VA.

- 5) Applicant's below named attorney received the returned correspondence on Thursday, September 14, 2007 and immediately began an inquiry into the facts along with the preparation of this petition and supporting affidavit that the Applicant be given the retroactive filing date of September 10, 2007.

Granting of the Applicant's petition set forth above is believed to be proper in all respects, as it will be readily apparent from the facts set forth above, that the Applicant, through his attorneys, properly deposited the Response with the United States Patent Office on Monday, September 10, 2007 under the applicable Express Mail provisions. Accordingly, Applicant's attorneys respectfully submit that this petition should be granted forthwith so that the Applicant will be given the September 10, 2007 filing date to which he is entitled in order to preserve the pendency of the above-referenced patent application. The Transmittal Form included herewith in duplicate authorizes the Director to charge any fees associated with this Petition to the HD&P deposit account. See the Remarks section thereof.

ALTERNATIVE PETITION UNDER 37 C.F.R. 1.137(b)
FOR REVIVAL OF UNINTENTIONALLY ABANDONED APPLICATION

While Applicant's attorneys have no reason whatsoever to believe that the foregoing petition under 37 C.F.R. 1.10(e) should not immediately be granted, in the event the honorable Commissioner of Patent, for any reason, elects to deny said petition, Applicant's attorneys respectfully request that, alternatively, the above-referenced patent application be revived, since its abandonment was unintentional in accordance with the provisions of 37 C.F.R. 1.137(b), MPEP §711.03(c). In addition to the facts detailed above, Applicants expressly state that the entire delay in filing the required Response from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. 1.137(b) was unintentional. Again, while Applicant's attorneys submit that the Applicant's petition under 37 C.F.R. 1.10(e) above should be granted as presented, and that the Applicant should not have to avail himself of this alternative petition under 37 C.F.R. 1.137(b) (or incur a substantial government fees associated therewith), Applicant's attorneys alternatively respectfully request that the application be revived. The Transmittal Form included herewith in duplicate authorizes the Director to charge any fees associates with this Petition to the HD&P deposit account. See the Remarks section thereof.

Respectfully submitted,

Dated: September 19, 2007

By: 

Michael E. Hilton
Reg. No. 33,509

MEH/jks
HARNES, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

EXHIBIT A

AFFIDAVIT

I, Joshua M. Copeland, being duly sworn, hereby state as follows:

1. that I am a full time employee of the law firm of Harness, Dickey & Pierce, P.L.C. (HD&P) in its Troy, Michigan offices and that I have been so employed since June 2000.
2. that I presently hold the position of Mail Room Clerk at HD&P's Troy Michigan offices, and included in my responsibilities is the daily processing of all correspondence being sent by the Troy, MI offices of HD&P to the United States Patent and Trademark Office.
3. that on September 10, 2007, I accumulated all mail being sent that day to the United States Patent and Trademark Office and placed such mail in a mailing container to which I affixed a mailing address label which indicated the correct name and address for mailing the container by Express Mail to the United States Patent and Trademark Office. The Express Mail tracking number for this package of USPTO Commissioner-directed mail is EV 755419224 US. A copy of the Express Mail label is attached as Exhibit C to the accompanying Petition.
4. that I confirmed that each individual piece of this type of mail contained in the subject container was recorded in a book maintained in the HD&P Troy, MI Mail Room and identified as the "Commissioner's Book". A copy of the relevant page of the Commissioner's Book for the enclosed Response is attached as Exhibit B to the accompanying Petition. In addition, the enclosed Response was returned along with the other mail that was misdirected.
5. that the aforesaid package of Commissioner mail to the U.S. Patent and Trademark Office with the correct and complete mailing label affixed thereto was then given to the HD&P Troy, MI receptionist shortly before 5:00 p.m. Monday, September 10, 2007 to await pick up by an employee of the United States Postal Service on that day. On September 10, 2007, this Express Mail package to the USPTO was processed in exactly the same way as I have processed daily USPTO Commissioner-directed mail on a routine basis on countless previous occasions during the course of my employment at Harness, Dickey & Pierce;
6. that , in order to reduce the possibility of the situation explained in the attached Petition from repeating itself, pre-addressed labels were ordered from the U.S. Postal Service with the U.S. Patent and Trademark Office mailing address preprinted thereon. It is believed that with such preprinted labels, as long as the addressee portion of even the "Addressee Copy" is intact, then the addressee information will be legible. Such labels have been ordered and upon receipt thereof, will be used on all future packages of Commissioner's mail being sent to the United Sates Patent and Trademark Office from Harness, Dickey & Pierce Troy, Michigan

offices. Mail Room personnel are also reviewing the entire United States Patent Office Commissioner mail handling procedure at HD&P Troy, MI offices to see if there are any additional safeguards that should be implemented to safeguard against a similar occurrence in the future.

7. that it is my understanding that the U.S. Postal Service has initiated its own inquiry into the improper premature separation of the Express Mail "Mailing Label" from the Commissioner's mail package, since it is such a rare and problematic occurrence.

Further affiant sayeth not.



Joshua M. Copeland

Date: 09/19/07

EXHIBIT B

Title: Router Having a Single CPU IMAU

Please acknowledge receipt of: Transmittal Form with Express Mail No. EV 755 419 224 US (9/10/2007) (in duplicate); Supplemental Information Disclosure Statement; PTO Form 1449 with 2 cited US Patent Document References (not attached) and Return Postcard

5059-000178/DVD

By stamping and returning to Harness, Dickey & Pierce, P.L.C.

Due: Date Mailed: Sept. 10, 2007 Attorney: Michael D. Wiggins

USPTO Date Stamp

09/10/07

Applicant: Kozo Odamura et al.

Case No.: 1300-000005/US

Serial No.: 10/677,122

Filing Date: October 1, 2003

Title: PRINTING METHOD USING PEARL PIGMENT

Please acknowledge receipt of:

EV 755 419 224 US (9/10/2007)

1. Check in the amount of \$1810.00;
2. Request for Continued Examination Transmittal (1 page in duplicate);
3. Petition for Extension of Time;
4. Amendment; and
5. This return receipt postcard

By stamping and returning to Harness, Dickey & Pierce, P.L.C.

Due: 06/08/2007 Date Mailed: 09/10/2007 Attorney: MEH

USPTO Date Stamp

EXHIBIT C

Customer Copy
Label 11-F, April 2004



9/10/07 EV 755419224 US



Post Office To Addressee

ORIGIN (POSTAL SERVICE USE ONLY)			DELIVERY (POSTAL USE ONLY)		
PO ZIP Code 48099	Day of Delivery <input checked="" type="checkbox"/> Next <input type="checkbox"/> 2nd <input type="checkbox"/> 3rd Del. Day	Postage \$ 4.30	Delivery Attempt 1	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Date Accepted 9/10/07	Scheduled Date of Delivery Month <input type="checkbox"/> Day <input type="checkbox"/> Year	Return Receipt Fee \$ 3.00	Delivery Attempt 1	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Time Accepted 17:00	Scheduled Time of Delivery <input type="checkbox"/> Noon <input type="checkbox"/> 3 PM	COD Fee \$ 3.00	Delivery Date 9/10/07	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Flat Rate <input type="checkbox"/> or Weight 5.00 lbs.	Int'l Alpha Country Code	Acceptance Emp. Initials [Signature]	<input type="checkbox"/> NO DELIVERY <input type="checkbox"/> Signature <input type="checkbox"/> Signature <input type="checkbox"/> Signature <input type="checkbox"/> Signature		
CUSTOMER USE ONLY METHOD OF PAYMENT: <input type="checkbox"/> Cash <input type="checkbox"/> Bill <input type="checkbox"/> Bill Express Mail Corporate Acct. No. 748384			TO: (PLEASE PRINT) Harless Dickey & Pierce PLLC PO BOX 828 BLOOMFIELD HILLS MI 48303-0828 Fed by JLS		

FOR PICKUP OR TRACKING: Visit www.usps.com or Call 1-800-222-1811

